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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

SIERRA DEVELOPMENT CO.  
Plaintiff,

vs.

CHARTWELL ADVISORY GROUP,  
LTD.  
Defendant.

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CHARTWELL ADVISORY GROUP,  
LTD.  
Counterclaimant,

vs.

SIERRA DEVELOPMENT CO., et  
al.,  
Counterdefendants.

CASE NO. 13cv602 BEN (VPC)

ORDER ON MOTIONS IN LIMINE

A1. Chartwell’s Motion in Limine to Exclude the Testimony of Jeremy Aguero [ECF No. 583]. Granted. Jeremy Aguero is prohibited from testifying and offering his legal opinions or legal/factual conclusions which invade the province of the Court.

1 A2. Chartwell's Motion in Limine to Exclude Evidence Regarding  
2 this Court's Prior Summary Judgment Orders [ECF No. 584]. In view of the waiver  
3 of jury trial, this motion is denied as moot.

4 B1. Counterclaim Defendants' Joint Motion in Limine No. 1 to Preclude  
5 Testimony Based on Non-Preserved Evidence and for a Negative Evidentiary  
6 Inference [ECF No. 588]. Denied. Chartwell did not violate an obligation to  
7 preserve evidence in anticipation of litigation until it reasonably anticipated  
8 litigation with its clients. That occurred after 2008.

9 B2. Counterclaim Defendants' Joint Motion in Limine No. 2 to Exclude:  
10 (1) All Evidence Not Produced in Discovery; and (2) All Evidence and Argument  
11 Regarding Legal Theories Not Alleged in the Pleadings [ECF No. 592]. (1) Denied,  
12 without prejudice. (2) Granted.

13 B3. Counterclaim Defendants' Joint Motion in Limine No. 3 to Exclude:  
14 (1) All Evidence or Computations of Unjust Enrichment Damages; (2) the Expert  
15 Testimony of Richard Ostiller [ECF No. 593]. Denied. Richard Ostiller may offer  
16 his expert testimony regarding methods and means for calculating unjust enrichment  
17 valuations, if any. See Certified Fire Prot. Inc. v. Precision Constr. Inc., 128 Nev.  
18 371, n.3 (Nev. 2012) (actual value of recovery is usually the lesser of the market  
19 value or the price defendant was willing to pay).

20 B4. Counterclaim Defendants' Joint Motion in Limine No. 4 to Allow the  
21 Use of Video Clips from Depositions in Opening Statements [ECF No. 587]. In  
22 view of the waiver of jury trial, this motion is denied as moot.

23 B5. Counterclaim Defendants' Joint Motion in Limine No. 5 to Exclude  
24 Evidence of Work Done by Chartwell for Non-Parties [ECF No. 589]. Denied,  
25 without prejudice. This type of evidence bears upon the unjust enrichment claim  
26 that Chartwell helped orchestrate the industry-wide settlement with the State of  
27 Nevada.

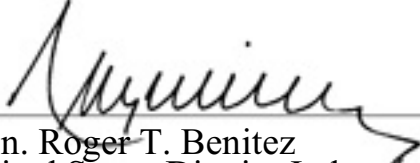
1 B6. Counterclaim Defendants' Joint Motion in Limine No. 6 to Exclude Any  
2 Evidence that Counterclaim Defendants had the "Right to a Refund" [ECF No. 590].  
3 Denied, without prejudice. Such evidence bears upon the claim that a right to a  
4 refund was traded for a tax moratorium and the value of the trade.

5 B7. The Harrah's Parties Motion in Limine to Preclude Chartwell from  
6 Referring to the Harrah's Parties Collectively as "Caesars" [ECF No. 585]. In view  
7 of the waiver of jury trial, this motion is denied as moot.

8 B8. The Mandalay Parties' Motion in Limine No. 1 to Preclude Chartwell  
9 from Referring to the MGM Parties' Collectively as "MGM" and/or "Mandalay"  
10 [ECF No. 586]. In view of the waiver of jury trial, this motion is denied as moot.

11 **IT IS SO ORDERED.**

12 DATED: May 4, 2017

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14 Hon. Roger T. Benitez  
15 United States District Judge  
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